

In re Patent Application of  
**HEELEY ET AL.**  
Serial No. 10/521,039  
Filed: **NOVEMBER 14, 2005**

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**REMARKS**

Applicants thank the Examiner for the careful and thorough examination of the present application, and for the indication of allowable subject matter. Claims 16-36 remain pending in the application. Favorable reconsideration is respectfully requested.

**I. The Claimed Invention**

The invention as set forth in independent Claim 16 is directed to a locking mechanism for a latch mechanism having a latch spindle turnable to move a latch bolt from its latching position. The locking mechanism includes a rotatable handle having a drive passageway therein for fitting to an adjacent end of the latch spindle, a locking member mounted on the handle, and a retainer associated and engageable with the locking member to lock the handle against rotation. The drive passageway is configured to allow the handle to turn relatively to the latch spindle in opposite directions through a predetermined angle of movement, at one end of which, the handle is engageable with the latch spindle for turning the latch spindle in an opening direction to move the latch bolt from its latching position and, at the opposite end of which, the handle is in a locking position in which the locking member is engageable with the retainer and the handle is engageable with the spindle to prohibit turning of the spindle in the opening direction.

The invention as set forth in independent Claim 29 is directed to a latch mechanism including a latch spindle, a

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latch bolt movable from a latching position to a release position in response to turning of the latch spindle, and a locking mechanism comprising a rotatable handle having a drive passageway therein fitted to an adjacent end of the latch spindle, a locking member mounted on the handle, and a retainer associated and engageable with the locking member to lock the handle against rotation. The drive passageway is configured to allow the handle to turn relatively to the latch spindle in opposite directions through a predetermined angle of movement, at one end of which, the handle is engageable with the latch spindle for turning the latch spindle in an opening direction to move the latch bolt from its latching position and, at the opposite end of which, the handle is in a locking position in which the locking member is engageable with the retainer and the handle is engageable with the spindle to prohibit turning of the spindle in the opening direction.

The invention as set forth in independent Claim 34 is directed to a locking mechanism for a latch mechanism having a latch spindle turnable to move a latch bolt from a latching position. The locking mechanism includes a rotatable handle for fixing to an adjacent end of the latch spindle for turning the latch spindle, a locking member mounted on the handle, and a retainer associated and engageable with the locking member, in a locking position of the handle, to prohibit turning of the handle and the latch spindle. A guide is spaced from the locking position and delimits an arc of movement of the locking member when the handle is turned from a rest position to move the latch bolt from its latching

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position. An actuator is for operating the locking member to permit the handle to be turned from the rest position to the locking position and the locking member to be engageable with the retainer.

## **II. The Claims are Patentable**

Claims 16, 17, 19, 24, 25, 27-30, 32 and 34-36 were rejected in view of Eckhardt et al. (U.S. Patent No. 6,601,270) taken alone or in combination with Humes (U.S. Patent No. 6,921,116) for the reasons set forth on pages 2-5 of the Office Action. Claims 18, 20-23, 26, 31 and 33 were indicated as being directed to allowable subject matter. Applicants contend that Claims 16, 17, 19, 24, 25, 27-30, 32 and 34-36 clearly define over the cited references, and in view of the following remarks, favorable reconsideration of the rejections under 35 U.S.C. §102(b) and §103(a) is requested.

### **A. The Rejection of Independent Claims 16, 29 and 34 under 35 U.S.C. §102**

The Eckhardt patent is directed to a handle supported pivotably but axially tight on an installation body and having a polygonal bar mounted for rotation within a handle neck for actuating a closing mechanism. Two drivers movable relative to each other are engageable in a non-positive and/or a positive way between neighboring surfaces either directly or via coupling elements so that a torque transmission from the handle to the polygonal bar is free but is blocked from the polygonal bar to the handle as at least

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one coupling element is displaced in the direction of the attack. A main portion of a polygonal driver may be concentrically enclosed by a two-shell handle driver having wings with front faces which drive e.g. pairs of spring-loaded roller pins held in a wedge-shaped confining zone. Corner areas of indentations of the polygonal driver serve to attack the roller pins. Central parts of the handle driver may guide a compression spring which loads engaging balls in an outward direction; recesses of the installation body are associated to the balls at enclosing surfaces.

Although the Eckhardt mechanism includes a rotatable handle with a drive passageway fitted to a latch spindle, Applicants maintain that the Examiner has mischaracterized various portions of the mechanism in an attempt to meet the claimed features of the locking member, retainer and the configuration of the drive passageway. Indeed, the passageway in the Eckhardt mechanism does not allow the handle to turn relatively to the latch spindle in opposite directions through a predetermined angle of movement at one end of which the handle is in a horizontal rest position and is engageable with the latch spindle for turning the spindle in a direction to withdraw the latch bolt from its latching position, and at the opposite end, the handle is in a lifted locking position and is engageable with the spindle to prohibit turning thereof in the opening direction, as claimed.

More specifically, in the Eckhardt mechanism, the handle 10 is fixed to a handle driver 15 rotatably mounted in the installation body 20 and a square member or driver 35 is fixed to the latch spindle 30. The spindle driver 35 is

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coaxially mounted in the handle driver and the two drivers are coupled together via projections 51 on the handle driver engaging, with a small clearance, recesses 56 in the spindle driver 35. As described in Eckhardt beginning at column 3, line 29, the "handle driver 15 and the square member 35 are driver components of a coupling assembly (K) for torque transmission which is free from the handle to the polygonal bar 30 but is blocked from the polygonal bar 30 to the handle." This blocking is achieved by a spring controlled locking mechanism which, in the embodiments illustrated in FIGs. 2 to 5b of Eckhardt, basically comprises a ball and spring mechanism mounted in the installation body 20 between the body and the spindle driver 15.

Furthermore, the handle driver 15 in the mechanism of Eckhardt cannot be considered a locking member mounted on the handle as claimed. It is not the handle driver 15 that produces a locking action but rather it is the ball/spring arrangement 36, 38 which is mounted in the locking ring 25 fixedly seated in the installation body 20. Also, this ball/spring arrangement 36, 38 cannot be considered a retainer as claimed because they lock the latch driver 35 against rotation, but it appears that the handle can still be rotated. Moreover, at neither end of the clearance in the Eckhardt mechanism is the handle "in a lifted locking position and is engageable with the spindle to prohibit turning thereof in the opening direction" as claimed.

As the Examiner is aware, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single

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prior art reference. The identical invention must be shown in as complete detail as is contained in the claim. In view of the discussion above, it should be apparent that Eckhardt does not disclose each of the claimed features as set forth in independent Claims 16, 29 and 34.

B. The Rejection of Claims 17, 30 and 35 under 35 U.S.C. §103

Secondly, with respect to dependent Claims 17, 30 and 35, Applicants maintain that the Examiner is impermissibly using the teachings of Applicants' own patent application as a roadmap to modify the prior art. For example, on page 4 of the office action, the Examiner asserts that it "would have been an obvious matter of design choice to make the different portions of the device of whatever form or shape was desired or expedient." But a careful review of dependent Claims 17, 30 and 35, reveals that no features related to "form or shape" are being claimed. These claims set forth that "the locking member is slidably mounted in the handle and is selectively controllable to be engaged with and disengaged from the retainer."

As the Examiner is aware, to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference. Second, there must be a reasonable expectation of success. Finally, the prior art reference must teach or suggest all the claim features. The initial burden is on the Examiner to provide some suggestion of the desirability of doing what the

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Applicants have done. To support the conclusion that the claimed invention is directed to obvious subject matter, either the reference must expressly or impliedly suggest the claimed invention or the Examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the reference. Both the suggestion to make the claimed combination and the reasonable expectation of success must be founded in the prior art and not in Applicants' disclosure.

There is simply no teaching or suggestion in the cited reference to provide the combination of features as claimed. Accordingly, for at least the reasons given above, Applicants maintain that the cited reference does not disclose or fairly suggest the invention as claimed. Furthermore, no proper modification of the teachings of this reference could result in the invention as claimed. Thus, the rejection under 35 U.S.C. §103(a) should be withdrawn.

C. The Rejection of Claim 28 under 35 U.S.C. §103

The Humes patent is directed to a door handle assembly that includes a bias mechanism that maintains inside and outer handles in a generally horizontal position in which a latching bolt of a latching bolt mechanism is fully extended, the latching bolt being retracted upon rotating either handle only about 28 degrees from the horizontal retracting the latching bolt to allow opening of a door on which the door handle assembly is installed.

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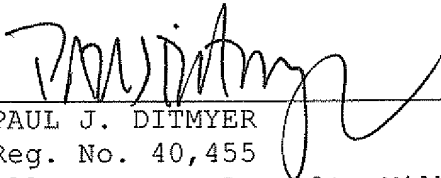
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Without discussing the merits of the Examiner's obviousness rejection in view of Humes, it is sufficient to point out that the Humes reference (filed January 14, 2003) does not even qualify as prior art under 35 U.S.C. §102 and §103(a) in view of the July 12, 2002 priority date of the present application. Accordingly, for this reason alone, the rejection of Claim 28 in view of Humes should be withdrawn.

### III. Conclusion

In view of the foregoing remarks, it is respectfully submitted that the present application is in condition for allowance. An early notice thereof is earnestly solicited. If, after reviewing this Response, there are any remaining informalities which need to be resolved before the application can be passed to issue, the Examiner is invited and respectfully requested to contact the undersigned by telephone in order to resolve such informalities.

Respectfully submitted,

  
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